

REMARKS

Claims 1-21 were pending and claims 22-48 are presently withdrawn due to election. By way of the amendment, claims 1-21 have been cancelled and claims 49-70 have been added. Applicants respectfully contend that claims 49-70 are drawn to the elected species C, D, or L of invention I. Claims 49-70 will be pending upon entry of this amendment. Applicants have further amended the pending claims to better recite the present invention.

Renewed Request to Correct Priority Date

On June 15, 2005, Applicants respectfully requested that the related provisional application No. 60/409,838 filed September 9, 2002 be entered as a priority document for the present application. Applicants renew this request. In detail Applicants note that the present application is related to the provisional application, No. 60/409,838 filed September 9, 2002. Priority to this application was claimed in the Declaration and Power of Attorney filed in this corresponding utility application, No. 10/659,211. Given the utility application was filed within one year of the provisional application filing date, Applicants respectfully request the entry of the provisional application as a priority document under Title 35 USC Section 119(e).

Claim Rejections under 35 USC Section 112

The Examiner had rejected claims 5 and 8-21 for Section 112 issues. Claims 1-21 have been cancelled. Reconsideration is respectfully requested.

Prior Art

The Examiner rejected claims 1-21 as being obvious in view of US Pub. 2003/0109892 to Deem et al or further in view of US Pat. No. 7,297,150 to Cartledge et al. Applicants have cancelled claims 1-21 and added claims 49-70, reconsideration is respectfully requested. Independent claims 49, 59, and 66 recite in part "manipulating the innermost tissue layer folds at or near at least two tissue regions along the organ wall" (claim 49), "manipulating the innermost tissue layer folds at or near at a first and a second tissue region along the organ wall" (claim 59), or "manipulating stomach folds at or near at a first and a second tissue region along the stomach wall" (claim 66). The '892 publication and the '150 patent do not include any recitation of organ folds. Further, they do not recite manipulating folds at or near regions to be coupled prior to the region coupling.

Applicants contend this different in their invention and recited prior art is significant and such manipulation is not common sense given the references failure to discuss the folds in any manner. In view of the above, Applicants respectfully contend that the amended claims are allowable over the art of record. Applicants respectfully request the Examiner to contact the undersigned Attorney prior to the issuance of a prior art rejection.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 50-1119** referencing docket no. **END001US**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,



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